

REMARKS/ARGUMENTS

The Notice of Non-Compliant Amendment dated March 2, 2009 and the non-Final Office Action dated July 23, 2008 have been received and the comments have been considered. Claims 1, 3, 7, and 9 have been amended. Claims 1-10 are currently pending. Applicants respectfully request reconsideration in view of the remarks set forth below.

The specification has been objected to as failing to provide antecedent basis for the phrase "... the interferent current produced at the uncovered area is proportional to interferent produced overall ..." in claims 1, 3, 7, and 9. Applicant respectfully traverses this objection because this phrase is fully supported throughout the specification. Applicant respectfully directs the Examiner's attention to two examples in paragraphs 0055 and 0067, which paragraphs have been reproduced below with the words "interferent" and "proportional" being in bold typeface and the relevant portions being underlined:

[0055] It should be noted that uncoated portions 12u and coated portions 12c may have a respective area denoted as A_{unc} and A_{cov} . Uncoated portions 12u can oxidize **interferents**, but not glucose because it is not coated with reagent layer 22. In contrast coated portion 12c can oxidize glucose and **interferents**. Because it was experimentally found that uncoated portions 12u oxidizes **interferents** in a manner **proportional** to the area of coated portion 12c, it is possible to predict the proportion of **interferent** current measured overall at second working electrode 12. This allows the overall current measured at second working electrode 12 to be corrected by subtracting the contribution of the **interferent** current. In an embodiment of the present invention the ratio of $A_{unc}:A_{cov}$ may be between about 0.5:1 to 5:1, and is preferably about 3:1.

[0067] Test strips were prepared according to the first embodiment of the present invention as illustrated in FIG. 1 to 3. These test strips were tested in blood having various concentrations of **interferents**. To test these strips, they were electrically connected to a potentiostat which has the means to apply a constant potential of 0.4 volts between the first working electrode and the reference electrode; and the second working electrode and the reference electrode. A sample of blood is applied to the sample inlet allowing the blood to wick into the sample receiving chamber and to

we first working electrode, second working electrode, and reference electrode. The reagent layer becomes hydrated with blood and then generates ferrocyanide which may be proportional to the amount of glucose and/or interferent concentration present in the sample. After about 5 seconds from the sample application to the test strip, an oxidation of ferrocyanide is measured as a current for both the first and second working electrode.

Because the identified phrase in claims 1, 3, 7, and 9 is fully supported in the specification, as noted above, this objection should therefore be withdrawn.

Applicants thank the examiner for his examination of the application and the indication of allowable subject matter in claims 1-10 upon an amendment to overcome the Section 112, second paragraph rejection and submission of a Terminal Disclaimer. With respect to the Section 112, second paragraph rejection, applicants respectfully note that the amendment to claims 1, 3, 7, and 9 now tie the measuring steps with the calculating steps. In particular, each of the noted claims now recites:

calculating a corrected current value representative of a glucose concentration using the measured first current, the measured second current, and a ratio of said covered area to said uncovered area of said first and said second working electrodes...

Because the calculating steps now require the use of the first and second currents as measured in the measuring steps for the calculating step, claims 1, 3, 7, and 9 now recite the elements deemed essential by the Examiner. Accordingly, this rejection has been overcome and should be withdrawn.

With respect to the non-statutory obviousness double patenting rejections, applicants hereby submit a Terminal Disclaimer with respect to commonly owned application S.N. 10/977,292, which has been abandoned. Accordingly, these rejections should be withdrawn. Accordingly, claims 1-10 are in condition for allowance.

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicant earnestly solicits early examination on

Serial No. 10/577,586

the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowance, he is urged to contact the undersigned Attorney via telephone at 408-942-5721, or facsimile number 408-956-4404.

The Commissioner has been authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account.

Respectfully submitted,

Dated: April 1, 2009

By: *stKhoi Tel*

Khoi Q. Ta

Reg. No. 47,300

Johnson & Johnson
Patent Law DEPARTMENT
Attn: Philip Johnson
P.O. Box 1222
New Brunswick, NJ 08933
(408) 942-5721